

The Role of Religious Communities in the Adoption, Implementation, and Monitoring of the United Nations Convention on the Rights of the Child, With a Special Regard to the Role of the Holy See

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ABSTRACT

The United Nations Convention on the Rights of the Child (hereinafter, UNCRC or Convention), being the most widely ratified human rights treaty in the world,¹ bears the influence of different stakeholders who played an important role in the drafting process, its adoption, and later in its implementation and monitoring. The most important stakeholders are the State Parties to the Convention, who are the primary duty bearers of the obligations stemming from it. There are other stakeholders, such as the United Nations Children's Fund (hereinafter, UNICEF), non-governmental organisations (hereinafter, NGOs), national human rights institutions (hereinafter, NHRIs)² and *religious communities*. The Holy See is party to the UNCRC, and therefore is a primary duty bearer just as other State Parties. Thus, from the perspective of international law and from a narrower aspect, from the perspective of the UNCRC among religious communities, the role and the impact of the Holy See and by implication the Catholic Church is the most tangible from a legal point of view. The current chapter elaborates the *role of religious communities* in the drafting, adoption, implementation, and monitoring of the UNCRC. The *first part* of the paper will give a general overview of the impact of religious communities. The *second and core part* of the paper will focus on the role of the Holy See, the representative of the Catholic Church and belief – unlike representatives of other religions – has an own status in international law and the ability to enter international conventions.

KEYWORDS

UNCRC, children's rights, religious communities, Holy See, Vatican City, Catholic Church, safeguarding, rights-based approach, reporting cycle, Committee on the Rights of the Child, Pontifical Commission for the Protection of Minors and Vulnerable Adults, world religions

1 As of 15 April 2024 all United Nations State Parties have ratified the UNCRC, except the United States.

2 On the roles of UNICEF, NGOs and NHRIs, please see the book in the ICCR LL.M series on International Children's Rights.

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1. Religious Communities and the UNCRC

The right to religious freedom and conscience is a fundamental human right. The right to freedom of religion includes the right to shape an individual's entire life according to his or her faith, and for the religious community to self-determine itself.³ If one belongs to a religious community, it will surely have an impact on his or her worldview, which might also influence the individual's perspective on the rights of a child. The inevitable cultural impact is also part of the UNCRC. Religious texts and the UNCRC share a common vision for children, including the family-centred values of both religious and rights-based approaches.⁴ The major world religions largely agree on four key points that are essential to a child rights-based approach and the implementation of children's rights:

- A fundamental belief in the sanctity of life and the dignity of the child.⁵
- An emphasis on the family as the best environment for bringing up children.
- The high priority given to children and the idea that all members of society have rights and duties towards children.
- A holistic notion of the child and a comprehensive understanding of his or her physical, emotional, social, and spiritual needs.⁶

The belief that all human beings, including children, deserve to be respected and treated with dignity – without discrimination on the basis of race, ethnicity, ancestry, gender, socioeconomic status, or other status – exists across traditions.⁷

Besides the common values and common visions, religious communities are generally subject to national laws. Most national laws⁸ are incorporated in the UNCRC, so they are obliged to respect the rights enshrined in the Convention. Article 27 explicitly refers to the child's 'spiritual, moral and social development'. The UNCRC thus offers more than a technical legal mandate; it represents an ethical blueprint for all religious communities to act upon.⁹

Several religious communities *were actively involved in the ten-year process of drafting the UNCRC*, yet this history is not well-known.¹⁰ For instance, the International Catholic Child Bureau was a member of the core group of six NGOs, along with Amnesty International, Anti-Slavery International, Defence for Children International, the International Commission of Jurists, and Radda Barnen (a member

3 Schanda, 2018, p. 8.

4 Faith and Children's Rights, 2019, p. 19.

5 The source of children's rights is the inalienable human dignity of the child, and the dignity in most religions stems from the creation in the image of God.

6 Faith and Children's Rights, 2019, p. 19.

7 Ibid., p. 20.

8 All State Parties to the UN ratified the UNCRC, except the US.

9 Faith and Children's Rights, 2019, p. 20.

10 Ibid., p. 52.

of Save the Children International), and deeply involved in the drafting process. The Bahá'í Faith and the Friends (Quaker) community also made important contributions to the drafting process and advocated for the CRC's adoption, as did the International Council of Jewish Women, the World Jewish Congress, and the World Federation of Methodist Women.¹¹ The drafting history of the UNCRC contains five instances of faith-based organisations making independent proposals on specific articles being drafted. The five instances are: the International Council of Jewish Women (Article 2, Non-Discrimination), the Bahá'í International Community (Article 17, Access to Appropriate Information, and Article 29, Aims of Education), the World Federation of Methodist Women (Article 37, Children Deprived of Their Liberty), and Friends World Committee for Consultation (Article 38, Children in Armed Conflicts).¹²

Even though religious communities were involved in the drafting process – apart from the Holy See – they did not become signatories to the UNCRC, *their role can rather be described as an advocating role*, both in the drafting and adoption process, as well as in the implementation phase. The first global conference of religious leaders focusing exclusively on the UNCRC was held in the United States in July 1990, in Princeton, New Jersey, after the Convention was adopted.¹³ This unprecedented conference, organised by UNICEF and Religions for Peace, gathered 150 religious leaders from 40 countries and 15 of the world's religious traditions.¹⁴ The main objective of this multi-religious gathering¹⁵ was to address the role of religions in protecting the world's children and to call on religious groups worldwide to take an active role in promoting the UNCRC's ratification and implementation. Inspired in part by the UNCRC's high ratification rate and the global momentum for the promotion of children's rights, the Global Network of Religions for Children (hereinafter, GNRC)¹⁶ was established in 2000 by 294 religious leaders and child-rights workers from 33 different countries and all of the world's major religious traditions.¹⁷ The GNRC has held six forums since its establishment to strengthen interfaith cooperation. The last forum was held in Abu Dhabi from 16–21 December 2024.¹⁸ The event was preceded by a three-day children's Pre-Forum to provide a child-friendly space to those children who were actively involved in the Forum.¹⁹ The Pre-Forum's aim was to create a place with a tangible child rights-based approach, where children could (i) express their views on matters that affect them and their communities, (ii) share and discuss observations from their own countries and learn about situations in other countries and contexts,

11 Ibid.

12 Ibid., p. 53.

13 Ibid., p. 54.

14 Ibid.

15 Ibid.

16 See: <https://gnrc.net/>.

17 Ibid., p. 56.

18 See: <https://www.gnrcforums.net/sixth/>.

19 See: <https://www.gnrcforums.net/sixth/pre-forum/>.

and (iii) present their individual recommendations and prioritise what they would like to present at the main Forum.²⁰

Religious communities recognise that they are well placed to promote the UNCRC, which is based on moral and ethical values that they embrace. They continue to be important stakeholders in the promotion of children's rights and have a responsibility through national laws to comply with the provisions of the UNCRC, create communities where children can be safe, and where their dignity and childhood is protected.

2. The Holy See and the UNCRC

While discussing the impact of religions and religious communities on children's rights, from a strictly legal point of view, in terms of the implementation of the UNCRC, only the Holy See, as the central governing body of the Catholic Church is a State Party to the Convention. The Holy See – at that time led by Pope John Paul II – was a pioneer in the adoption and ratification of the UNCRC. It signed the Convention on 20 April 1990 and ratified it on the same date.²¹

Apart from the UNCRC, the Holy See has also ratified two Optional Protocols: the Optional Protocol on the sale of children, child prostitution, and child pornography, and the Optional Protocol on the involvement of children in armed conflict.²² The Holy See has not ratified the third Optional Protocol, on the communications procedure (hereinafter, OPIC). The Holy See praised the stakeholders' efforts for OPIC's preparation and underlined that the Holy See looks at the new *Optional Protocol to the Convention of the Rights of the Child to provide a communication procedure* as an opportune contribution to strengthen the human rights system.²³ However, it will most probably not decide on ratification any time soon, as the Holy See ratified the CRC with the reservation that canon law holds supremacy over the CRC, and ratification would mean allowing an external forum to decide on internal cases.

The Holy See has a deep and profound commitment to the care and defence of children. Such activities stem from the nature of the Church and her divinely ordained mission.²⁴

20 Ibid.

21 See: https://tbinternet.ohchr.org/_layouts/15/TreatyBodyExternal/Treaty.aspx?Treaty=CRC&Lang=en.

22 Both Optional Protocols were signed in 2000 and ratified in 2001.

23 Intervention of the Holy See at the 17th Ordinary Session of the United Nations Convention on the Rights of the Child. Statement by H.E. Msgr. Silvano Maria Tomasi. Geneva, 6 June 2011. Available at: https://www.vatican.va/roman_curia/secretariat_state/2011/documents/rc_seg-st_20110606_opc_en.html/.

24 Adolph, 2005, p. 172.

2.1. The Status of the Holy See Under International Law – Relevance From the Perspective of the UNCR

The Catholic Church has in its structure a supreme organ, the Holy See, which represents the Church internationally and – after the disappearance of the Pontifical States in 1870 – concludes treaties (concordats) and exercises the right of legation.²⁵ The Holy See is not only a church or a jurisdiction, but also a sovereign international actor.²⁶

The Holy See is an international legal person and has the capacity to bear international rights and obligations, a capacity that is exercised in various ways.²⁷ The Holy See consistently enters treaties, which reaffirms its commitment to respect and promote international law.²⁸ This is also the manner that the Holy See entered the UNCRC. The Holy See ratified the CRC in its dual personae as the government of the Catholic Church and the Vatican City State.²⁹

The monitoring body of the UNCRC, that is, the Committee on the Convention of the Rights of the Child (CRC Committee) *has taken the position* that in ratifying the UNCRC, the Holy See made a commitment to implement it not only within the Vatican City State, but also worldwide through the individuals and institutions under its authority. However, the Holy See has argued that it is only responsible for implementing the UNCRC within the walls of the Vatican City State. The Holy See's position is that it does not have the capacity or legal obligation to impose the principles of UNCRC on local Catholic Churches and institutions present in the territory of other states.³⁰ It takes the position that their activity is bound by national law, which means that except for the US, where the UNCRC has not been ratified, all Catholic Churches are bound by the UNCRC, but through the obligations taken upon by the State Party they are resident in and not through the Holy See.

In any event, the Holy See takes the position that there is a distinction between itself and the Catholic Church generally, which is a non-territorial entity and may be defined as a spiritual community of faith, hope, and charity constituted as a visible society founded on the communion of faith, sacraments, discipline, and governance by its internal legal system, namely canon law.³¹ This position has been affirmed by courts in litigation.³² Therefore, the Church and the Holy See need to be viewed as distinct entities, with only the latter being a sovereign international person. The Holy See is not the Church, but rather it is a central governing authority of the Church.³³ Nevertheless, in terms of the obligations stemming from the UNCRC, besides the distinction between the Holy See and a Catholic Church, the distinction between the

25 Santolaria, 2016.

26 Worster, 2021, p. 357.

27 Ibid., p. 360.

28 Ibid.

29 Tseday, 2017.

30 The Holy See, Comments of the Holy See on the Concluding Observations of the Committee on the Rights of the Child, 23 September 2014, paras. 6–8.

31 Worster, 2021, p. 359.

32 Ibid.

33 Ibid.

Vatican City and the Holy See is also relevant. The Holy See and the Vatican City are two distinct international legal persons that are capable of entering into international agreements in their own right.³⁴ Both exercise this right, and the Holy See is aware of the distinction.³⁵ The UNCRC was entered by the Holy See as a Party to the convention, which requires it to comply with the activities of the Holy See where it exercises sufficient control over persons and place.³⁶ This chapter does not intend to decide on the debate on whether this compliance is limited to the Vatican City State or whether there is an extraterritorial obligation, just to highlight the existence of this debate and at the same time underline that the Holy See is indeed a Party to the UNCRC and bound by its provisions.³⁷

2.2. The Approach of the Catholic Church to the Rights of the Child

The Catholic Church has its own and special approach to the rights of the child, *elaborated before and further strengthened since the ratification of the UNCRC*. It is important to highlight that this approach – read together with the reservations,³⁸ a legitimate legal instrument to be used whenever entering an international convention, made by the Holy See to the UNCRC – does not contradict the text of the Convention. Nevertheless, this does not mean that all the practises of the Holy See or the Catholic Church are child rights-based or child-sensitive approaches. This is an area that needs constant evaluation and evolution to support the Holy See and the entire Catholic Church in adopting policies that promote the protection and empowerment of children's rights as a necessity stemming from the child's human dignity; in other words, from the child's creation in the image of God.

This approach of the Church is elaborated in numerous Church documents, most important ones including the Apostolic exhortation *Familiaris Consortio*, Charter of the Rights of the Family, Apostolic exhortation *Amoris Laetitia*, Declaration *Dignitas Infinita* – without claiming to be complete. In addition to presenting these selected documents, the Pontifical Commission for the Protection of Minors and Vulnerable Adults has also been introduced. This Commission, established in 2014 by Pope Francis, has a mandate to prevent sexual abuse within the Church, and more broadly, to advocate for a Church where the safeguarding of children is a tangible reality.³⁹

34 Worster, 2021, p. 377.

35 Ibid.

36 Ibid.

37 It is important to underline that the legal obligation is to comply with the provisions of the UNCRC and not with the interpretation of the CRC Committee.

38 See subchapter on the role of the Holy See in the adoption of the UNCRC.

39 Pope Francis said the following at the establishment of the Commission: 'The Commission's specific task is to propose to me the most opportune initiatives for protecting minors and vulnerable adults, in order that we may do everything possible to ensure that crimes such as those which have occurred are no longer repeated in the Church. The Commission is to promote local responsibility in the particular Churches, uniting their efforts to those of the Congregation for the Doctrine of the Faith, for the protection of all children and vulnerable adults.'

2.2.1. *Familiaris Consortio*

Familiaris Consortio was issued in 1981⁴⁰ by John Paul II as an apostolic exhortation on the role of the Christian family in the modern world. The document starts by highlighting the challenges faced by families in the modern world, underlining that ‘marriage and the family constitute one of the most precious of human values, the Church wishes to speak and offer her help to those who are already aware of the value of marriage and the family and seek to live it faithfully.’

The document refers to children as a ‘precious gift of marriage’. In marriage, couples give themselves to one another, and children are a reflection of their love. By becoming parents, spouses take on a new responsibility, which they exercise through parental love, serving as a visible sign of the love of God for their children.⁴¹ Nevertheless, even if procreation is not possible within a marriage, it does not lose its equal value; instead it opens the door to other important forms of service such as adoption, various forms of educational work, and assistance to other families as well as to poor or disabled children.⁴²

In *Familiaris Consortio* there is a specific reference to the rights of children.⁴³ It also includes thoughts on the rights of women, the roles of men and fathers, and the elderly. Regarding children’s rights, it underlines that special attention must be given to children by developing a profound esteem for their personal dignity, as well as great respect and a generous concern for their rights.⁴⁴ This special attention must be given to every child, but it becomes even more urgent for younger children, especially when a child is sick, suffering, or disabled.⁴⁵ The document makes it clear that, from the perspective of Catholic Church, childhood begins at the moment of conception. While the rights of children are understood within the context of the family,⁴⁶ John Paul II also stresses that children are individuals with their own rights, with equal roles in the family, and as such, they contribute in many ways to family life.⁴⁷

40 *Familiaris Consortio*, November 22, 1981. See: https://www.vatican.va/content/john-paul-ii/en/apost_exhortations/documents/hf_jp-ii_exh_19811122_familiaris-consortio.html (Accessed: 10 April 2024).

41 *Familiaris Consortio*, 1981, para. 14.

42 *Ibid.*

43 *Familiaris Consortio*, 1981, para. 22.

44 *Ibid.*, para. 26.

45 *Ibid.*

46 *Familiaris Consortio* in para. 36 also underlines the right and duty of parents regarding education as essential in guiding their children.

47 ‘Acceptance, love, esteem, many-sided and united material, emotional, educational and spiritual concern for every child that comes into this world should always constitute a distinctive, essential characteristic of all Christians, in particular of the Christian family: thus children, while they are able to grow “in wisdom and in stature, and in favor with God and man”, offer their own precious contribution to building up the family community and even to the sanctification of their parents’. *Familiaris Consortio*, 1981, para. 26.

2.2.2. *Charter of the Rights of the Family*

The Holy See presented the Charter of the Rights of the Family (hereinafter, Charter)⁴⁸ on 22 October 1983. The Charter asserts that human life must be respected and protected absolutely from the moment of conception.⁴⁹ The Charter declares that children, both before and after birth, have the right to special protection and assistance, as well as their mothers during pregnancy and for a reasonable period of time after childbirth.⁵⁰ It emphasises that all children, whether born in or out of wedlock, are entitled to the same right of social protection, with a view to their integral personal development.⁵¹ It also states that orphans or children deprived of the assistance of their parents or guardians must receive particular protection on the part of society.⁵² Additionally, the Charter addresses the rights of children with disabilities by declaring that they have the right to find in the home and the school an environment suitable to their human development.⁵³

The Charter recognises the original, primary, and inalienable right of parents to educate their children⁵⁴ in accordance with their moral and religious convictions.⁵⁵ This primary right must be upheld in all forms of collaboration between parents, teachers, and school authorities, particularly participatory processes that give citizens a voice in the functioning of schools and in the formulation and implementation of educational policies.⁵⁶

2.2.3. *Amoris Laetitia*

The Apostolic exhortation *Amoris Laetitia*⁵⁷ of the Holy Father Francis to bishops, priests, and deacons, consecrated persons, Christian married couples, and all the lay faithful on love in the family was signed on 15 March 2016 and published on 8 April 2016.

Amoris Laetitia is very much a reflection of *Familiaris Consortio*, where children are seen as a gift of the love within marriage. The family is entrusted to a man, woman, and their children, so that they may become a communion of persons reflecting the union of the Father, the Son, and the Holy Spirit.⁵⁸ Begetting and raising children, in return, mirrors God's creative work.

48 Charter of the Rights of the Family. Available at: https://www.vatican.va/roman_curia/pontifical_councils/family/documents/rc_pc_family_doc_19831022_family-rights_en.html (Accessed: 14 April 2024).

49 Charter of the Rights of the Family, Art. 4.

50 Ibid., Art. 4, para. d).

51 Ibid., Art. 4, para. e).

52 Ibid., Art. 4, para. f).

53 Ibid., Art. 4, para. g).

54 Ibid., Art. 5.

55 Ibid., Art. 5, para. a).

56 Ibid., Art. 5, para. e).

57 Available at: https://www.vatican.va/content/dam/francesco/pdf/apost_exhortations/documents/papa-francesco_esortazione-ap_20160319_amoris-laetitia_en.pdf.

58 *Amoris Laetitia*, 2016, para. 28.

It also underlines the uniqueness of children by stating, ‘Children are a gift. Each one is unique and irreplaceable [...] We love our children because they are children, not because they are beautiful, or look or think as we do, or embody our dreams. We love them because they are children. A child is a child’.⁵⁹ The document affirms that the family is a place where parents become their children’s first teachers in faith.⁶⁰ Pope Francis also underlines that children are not the property of their families but have their own unique lives to lead.⁶¹ He further points out that children are not mere subjects but persons with rights, who are in their nature, teachers.⁶²

Amoris Leatitia also raises concerns about children’s sexual exploitation and abuse⁶³ – an area where Pope Francis has been particularly active. For instance, he established the Pontifical Commission for the Protection of Minors and Vulnerable Adults and adopted the *Motu Proprio* titled *As a Loving Mother* and *Vos Estis Lux Mundi* in 2019.⁶⁴ The *Motu Proprio Vos* and *Estis Lux Mundi* introduced several legislative provisions to address the crime of sexual abuse, emphasising that

‘[...] the crimes of sexual abuse offend Our Lord, cause physical, psychological and spiritual damage to the victims and harm the community of the faithful. In order that these phenomena, in all their forms, never happen again, a continuous and profound conversion of hearts is needed, attested by concrete and effective actions that involve everyone in the Church, so that personal sanctity and moral commitment can contribute to promoting the full credibility of the Gospel message and the effectiveness of the Church’s mission. This becomes possible only with the grace of the Holy Spirit poured into our hearts, as we must always keep in mind the words of Jesus: “Apart from me you can do nothing” (Jn 15:5). Even if so much has already been accomplished, we must continue to learn from the bitter lessons of the past, looking with hope towards the future.’⁶⁵

59 Ibid., para. 170.

60 Ibid., para. 16.

61 Ibid., para. 18.

62 ‘All the same, 15 in the concern he shows for children – whom the societies of the ancient Near East viewed as subjects without particular rights and even as family property – Jesus goes so far as to present them as teachers, on account of their simple trust and spontaneity towards others. “Truly I say to you, unless you turn and become like children, you will never enter the kingdom of heaven. Whoever humbles himself like this child, he is the greatest in the kingdom of heaven”’ *Amoris Leaticia*, para. 18.

63 The sexual exploitation of children is yet another scandalous and perverse reality in present-day society. Societies experiencing violence due to war, terrorism, or the presence of organised crime are witnessing the deterioration of the family, above all in large cities, where, on their outskirts, the so-called phenomenon of ‘street-children’ is on the rise. The sexual abuse of children is all the more scandalous when it occurs in places where they ought to be most safe, particularly in families, schools, communities and Christian institutions.

64 Available at: https://www.vatican.va/content/francesco/en/motu_proprio/documents/papa-francesco-motu-proprio_20160604_come-una-madre-amorevole.html.

65 *Vos estis lux mundi*.

2.2.4. *Dignitas Infinita*

The Declaration of the Dicastery for the Doctrine of the Faith *Dignitas Infinita on Human Dignity* was published on 8 April 2024. The document is not specifically about children but rather addresses the infinite human dignity of a person as a whole. The Church proclaims the dignity of *all human beings*, and thus ‘ardently urges that respect for the dignity of the human person beyond all circumstances be placed at the centre of the commitment to the common good and at the centre of every legal system’.⁶⁶

Dignitas Infinita addresses issues that threaten human dignity such as gender theory, sex changes, surrogacy, euthanasia, as well as abortion, poverty, human trafficking, and war. Through its elaboration on these issues, it offers a perspective on certain topics related to children’s rights.⁶⁷

The declaration cites St. John Paul II’s encyclical *Evangelium Vitae* on abortion, noting that the pontiff taught that ‘procured abortion is the deliberate and direct killing, by whatever means it is carried out, of a human being in the initial phase of his or her existence, extending from conception to birth’.⁶⁸ According to Pope Francis’ apostolic exhortation *Evangelii Gaudium*, also cited in the declaration, preborn children are ‘the most defenceless and innocent among us’ and in the present day, ‘efforts are made to deny them their human dignity and to do with them whatever one pleases, taking their lives and passing laws preventing anyone from standing in the way of this’.⁶⁹

The practice of surrogacy is another concern noted by the document, underlining that ‘the immensely worthy child becomes a mere object’ in the process.⁷⁰ The dignity of the child is violated ‘because of this unalienable dignity, the child has the right to have a fully human (and not artificially induced) origin and to receive the gift of a life that manifests both the dignity of the giver and that of the receiver’.⁷¹ ‘Moreover, acknowledging the dignity of the human person also entails recognizing every dimension of the dignity of the conjugal union and of human procreation. Considering this, the legitimate desire to have a child cannot be transformed into a “right to a child” that fails to respect the dignity of that child as the recipient of the gift of life’.⁷²

The declaration also identifies gender theory as a threat to human dignity as ‘it intends to deny the greatest possible difference that exists between living beings: sexual difference’.⁷³ The declaration adds that the ideology ‘envisages a society without sexual differences, thereby eliminating the anthropological basis of the family’. It thus becomes unacceptable that ‘some ideologies of this sort, which seek to respond to what are at times understandable aspirations, manage to assert themselves as

66 Montserrat Gas Aixendri, 2024.

67 *Dignitas Infinita*, 2024, para. 34.

68 *Dignitas Infinita*, para. 47.

69 *Ibid.*

70 *Ibid.*, para. 48.

71 *Ibid.*, para. 49.

72 *Ibid.*

73 *Ibid.*, para. 58.

absolute and unquestionable, even dictating how children should be raised. It needs to be emphasized that “biological sex and the socio-cultural role of sex (gender) can be distinguished but not separated.” Therefore, all attempts to obscure reference to the ineliminable sexual difference between man and woman are to be rejected’.⁷⁴

2.2.5. Pontifical Commission for the Protection of Minors

In 2013, the Council of Cardinals advised Pope Francis to establish a Commission of experts to act as an advisory body to the Holy Father, identifying child safeguarding as a priority.⁷⁵ In March 2014, Pope Francis issued a Chirograph outlining the Commission’s tasks, which included advising on effective policies for the protection of minors and vulnerable adults, as well as creating educational programs for all those involved in that work. In 2015 the statutes of the Pontifical Commission for the Protection of Minors (*Tutela Minorum*) were approved.

In February 2019, Pope Francis welcomed a proposal from the Pontifical Commission for the Protection of Minors (*Tutela Minorum*) and invited the Presidents of the Bishops’ Conferences from around the world to Rome for a Meeting on the Protection of Minors in the Church. The three-day gathering focused on responsibility, accountability, and transparency in the Church’s response to those who have been abused.

In March 2022, Pope Francis promulgated the Apostolic Constitution *Praedicate Evangelium* to reform the governance and structures of the *Roman Curia*. In the reform, *Tutela Minorum* was given a stable and central role within the *Roman Curia*, alongside the Dicastery for the Doctrine of the Faith, while maintaining its unique position of reporting directly to the Holy Father through its President. The Commission was also entrusted with the responsibility of reviewing safeguarding policies and guidelines within the local Church.⁷⁶ The *work of Tutela Minorum* intends to establish a culture and practise of safeguarding in Catholic churches all over the world and for this purpose engage in a dialogue with local churches.

2.2.6. Summary of the Church’s Approach Towards Children’s Rights

Even though, the list of church documents discussed in this chapter is not extensive, it provides an overview, which allows for some conclusions⁷⁷ to be made in terms of the Catholic Church’s approach towards children and their rights.

⁷⁴ Ibid., para. 59.

⁷⁵ Available at: https://www.vatican.va/resources/resources_briefing-consiglio-cardinali_20131205_en.html.

⁷⁶ ‘The Pontifical Commission assists diocesan/eparchial Bishops, Episcopal Conferences and Oriental Hierarchical Structures, Superiors of Institutes of Consecrated Life and Societies of Apostolic Life and their Conferences in developing appropriate strategies and procedures, through Guidelines to protect minors and vulnerable persons from sexual abuse and to provide an appropriate response to such conduct by clergy and members of Institutes of Consecrated Life and Societies of Apostolic Life, according to canonical norms and taking into account the requirements of civil law’. *Praedicate Evangelium*, Art. 78 §2.

⁷⁷ It is important to note, however, that the aim of this chapter is to provide an overview.

- *Definition of the child:* The child in Catholic teaching is a human being created in the image of God. Childhood starts at the moment of conception and ends at the age of 18.⁷⁸ The definition of the child as such is a central value of the church, underlining the sanctity of life.
- *“Legal” value of the child:* A child is a gift of love of the parents and a treasure in the family. Each child upholds a great and unique value within the family and childhood, and its attributes are treated as graceful period of human life.
- *Dignity of the child:* The dignity of the child (their creation in the image of God) from which the rights of the child stem is valued to a high extent. Many challenges of the XXIst century, also faced by the church, are listed as a danger to their dignity, such as abortion, surrogacy, gender ideology, sexual abuse, child-trafficking, poverty, and war. This provides a clear viewpoint of the church in debates concerning these topics.
- *Child within the family:* By reason of his or her origin, end, and formative state, the child can only be understood within the context of the family, the basic unit of society.⁷⁹ For this reason, the Holy See notes that the ‘protection of children’s rights cannot become fully effective unless the family and its rights are fully respected by the legal systems of States and the international community’.⁸⁰ Parents are presumed to act for the good, for the well-being, or according to the legal standard in the “best interests of the child”. Such a presumption, may of course, be rebutted with proven or substantiated acts, such as child neglect, abuse, or violence committed by parents or while in the care of parents; however, beyond these types of cases civil authorities should not interfere with the primary duties and rights of parents.⁸¹
- *Approach toward abuse:* A zero-tolerance approach is adopted towards sexual abuse. Nevertheless, the approach to other kinds of abuses is not clear and needs further elaboration, as abuse is a great risk that jeopardises children’s rights.
- *The child’s well-being:*⁸² The Holy See contends that a presumption exists that the well-being of the child is most successfully realised in the natural family, based on marriage between one man and one woman.⁸³
- *The right of the parents:* Parents are responsible for their children and shall care for their children with parental love. They also have the right to upbring their children in line with their values.

78 Canon law provides that a minor is everyone under the age of 18. However, it should be underlined that marriage is allowed from the age of 14 for girls and from the age of 16 for boys, provisions that raise some concerns.

79 Adolphe, 2011, p. 173.

80 Ibid.

81 Ibid., p. 174.

82 Ibid.

83 Ibid. See Holy See’s Initial Report on OPSC, supra note 2, para. 10(c); Holy See’s Initial Report on OPAC, supra note 14, 10(c); Holy See’s Second Report on CRC, supra note 2, para. 20(e)l . Cf. Holy See’s Initial Report on CRC, supra note 2, paras. 5–6.

The documents analysed above highlight important principles that provide the framework of the Church's approach. Nevertheless, these documents do not provide a detailed explanation on specific issues that are also important in the dialogue on the rights of the child (some explanations can be found in different communications of the Holy See).

On 3 February 2025, Pope Francis organised an international summit on the rights of the child called the World Meeting on Children's Rights. He announced the publishing of a detailed document on children's right, which might provide further guidance to academia and practitioners.

3. The Role of the Holy See in the Drafting and Adoption of the UNCRC

The year 1979 marked the 20th anniversary of the Declaration of Children's Rights⁸⁴ celebrated during the International Year of Child, which was also a milestone in terms of the UNCRC, as from this moment the ten-year-long drafting process of the convention started.⁸⁵ In the context of the International Year of Children Pope Saint John Paul II spoke as follows,

'I wish to express the joy that we all find in children, the springtime of life, the anticipation of the future history of each of our present earthly homelands. No country on earth, no political system can think of its own future otherwise than through the image of these new generations that will receive from their parents the manifold heritage of values, duties and aspirations of the nation to which they belong and of the whole human family. Concern for the child, even before birth, from the first moment of conception and then throughout the years of infancy and youth, is the primary and fundamental test of the relationship of one human being to another. And so, what better wish can I express for every nation and for the whole of mankind, and for all the children of the world than a better future in which respect for human rights will become a complete reality throughout the third millennium, which is drawing near.'⁸⁶

The *protection of life from the moment of conception*, as stressed in the speech, remained an important question for the Holy See throughout the whole drafting process of the

84 In 1959 the United Nation adopted the Declaration of Children's Rights, a document that replaced the Geneva Declaration and declared some children's rights on an international level. It was never legally binding and was replaced by the CRC.

85 See for details: ICCR LL.M book series: International Children's Rights, Chapter 2.

86 Word of Saint John Paul II.

UNCRC. In addition to defining the beginning of childhood,⁸⁷ the role of the Holy See in the drafting process is evident in its efforts to advocate for a *proper balance between parental rights and the rights of the child*, and in the *protection of children in armed conflicts*.

To make its position clear on these issues, the Holy See signed and ratified the UNCRC with three reservations.⁸⁸ The *first reservation* concerns the interpretation of the expression “family planning education and services” in article 24 (2) of the UNCRC. For the Holy See this refers only to those methods of family planning it considers morally acceptable, namely, the natural methods of family planning. The *second reservation* concerns the interpretation of the articles of the UNCRC in a way that safeguards the primary and inalienable rights of parents, particularly regarding education,⁸⁹ religion,⁹⁰ association with others⁹¹ and privacy.⁹² The *third reservation* declares that the application of the UNCRC must be compatible in practice with the unique status of the Vatican City State and the sources of its objective law (art. 1, Law of 7 June 1929, n. 11) and, given its limited scope, with its legislation on matters of citizenship, access, and residence.

The Holy See also made the following *declaration* to the UNCRC:

- The Holy See regards the UNCRC as a proper and laudable instrument aimed at protecting the rights and interests of children, who are ‘that precious treasure given to each generation as a challenge to its wisdom and humanity’ (Pope John Paul II, 26 April 1984).
- The Holy See recognizes that the UNCRC represents an enactment of principles previously adopted by the UN, and once effective as a ratified instrument, will safeguard *the rights of the child before as well as after birth, as expressly affirmed in the Declaration of the Rights of the Child* and restated in the ninth preambular paragraph of the Convention. The Holy See remains confident that the ninth preambular paragraph will serve as the perspective through which the rest of the Convention will be interpreted, in conformity with article 31 of the Vienna Convention on the Law of Treaties of 23 May 1969.
- By acceding to the UNCRC, the Holy See intends to give renewed expression to its constant concern for the well-being of children and families. In consideration of its singular nature and position, the Holy See, in acceding to the Convention, does not intend to prescind in any way from its specific mission, which is of a religious and moral character.

87 The final, adopted version of the UNCRC defined the concept of the child in Art. 1 of the UNCRC; however, it leaves the determination of the beginning of life to the discretion of each State Party and only determines the end of childhood.

88 Available at: https://treaties.un.org/pages/ViewDetails.aspx?src=TREATY&mtdsg_no=IV-11&chapter=4&clang=_en#EndDec (Accessed: 15 April 2024).

89 Arts. 18 and 28 of the UNCRC.

90 Art.14 of the UNCRC.

91 Art. 15 of the UNCRC.

92 Art. 16 of the UNCRC.

The reservations and declaration made by the Holy See provide the framework for interpreting its obligations under the UNCRC and its understanding of the Convention.⁹³

Apart from the concrete actions of the Holy See, from a Catholic perspective, it is important to highlight the contribution of the *International Catholic Child Bureau* (hereinafter, BICE) to the drafting and adoption of the UNCRC. BICE is an international Catholic network of organisations, established in 1948 and is committed to promoting and protecting the dignity and rights of the child. It has a presence in nearly 30 countries across four continents, through its partner organisations. BICE actively participated in the elaboration of the UNCRC and holds a consultative status with the UN and was therefore present at the Human Rights Council and the Committee on the Rights of the Child in Geneva. BICE and Defense for Children International led a group of organisations during the drafting process and contributed to the recognition of the global vision of the child, including its moral and spiritual dimensions.⁹⁴

The Holy See signed and ratified the Convention on 20 April 1990, thereby becoming one of the first State Parties. After signing and ratifying the UNCRC, Pope Saint John Paul II reaffirmed the Holy See's commitment to children's rights and to the declaration of children's rights as outlined in the UNCRC. At the World Summit of Children, he expressed – among many other very important thoughts – that,

'[...] the International Convention on the Rights of the Child constitutes a statement of priorities and obligations which can serve as a reference point and stimulus for action on behalf of children everywhere. The Holy See gladly acceded to and endorses the Convention on the understanding that goals, programmes and actions stemming from it will respect the moral and religious convictions of those to whom they are directed, in particular the moral convictions of parents regarding the transmission of life, with no urging to resort to means which are morally unacceptable, as well as their freedom in relation to the religious life and education of their children. Children who are to learn to be supportive of their fellow man must learn the reality of mutually supportive relationships in the family itself, where there is profound respect for all human life, unborn as well as born, and where both mother

93 H.E. Mgr. Renato Martino, Permanent Observer for the Holy See to the United Nations, spoke as follows at a press conference given on the occasion of the Holy See's deposit of its instrument of accession in New York, 'The Holy See appreciates the long and arduous efforts that led to the Convention on the Rights of the Child and has noted the positive contributions that the Convention can provide for many aspects of children's wellbeing. However, the text of this Convention is a minimal basis for reaching an agreement, and therefore contains areas with which the parties are not completely satisfied [...]. In order to avoid any further delay in this long process, and in view of the fact that the text adopted will help protect children's rights, the Holy See has approved the final text, although with reservations.' *L'Osservatore Romano*, weekly French-language edition, No. 20, 15 May 1990, p. 4.

94 BICE, Mission, Vision, Value Note, p. 1.

and father jointly make responsible decisions regarding the exercise of their parenthood.’

The Holy See has a serious and profound interest in the care and defence of children.⁹⁵ The Holy See’s participation in the Convention has implications for the whole of humanity, with special relevance to its doctrine, internal legal system, and the laws of the Vatican City State.⁹⁶ The participation in the drafting stage was of great benefit, and by ratifying the Convention, the Holy See demonstrated its support for the good contained in it, and through its reservations and declarations, put the world on notice⁹⁷ as to its uncertainties.

4. The Dialogue Between the CRC Committee and the Holy See

Article 44 of the UNCRC establishes the State Parties’ obligation to submit reports on the implementation of the UNCRC to the CRC Committee every five years. To date, the Holy See has submitted *two periodic reports*, one in 1994 and one in 2011, and has engaged in a dialogue with the Committee on the Rights of the Child. The dialogue between the Holy See and the CRC Committee is often *intense and marked by extensive debate*.

4.1. Report Submitted in 1994:⁹⁸

The first report on the implementation of the UNCRC was submitted in 1994, and the oral hearing before the Committee was held on 14 November 1995, in Geneva.⁹⁹

The report can be divided into three parts:¹⁰⁰

1. *Affirmation of the Rights of the Child in the Teaching of the Holy See*: Under this heading the report addresses the human dignity of children from the moment of conception, emphasising that, according to the interpretation of the Holy See (and the Catholic Church) children’s rights must not be interpreted outside the context of the family. It also reinforces the approach of the Holy See regarding freedom of religion by underlining that it is a fundamental civil right that should be guaranteed by States. However, from the perspective of children, parents hold the right and authority to decide about the religious upbringing of their children.¹⁰¹

95 Adolphe, 2005, p. 172.

96 Ibid., p. 177.

97 Ibid.

98 The first report of the Holy See was due for 1 September 1992, but was finally submitted on 28 March 1994.

99 Lux, 2022, p. 77.

100 Ibid.

101 State Party Report: Holy See I.

2. *The Activity of the Holy See on Behalf of Children*: This chapter outlines the activities in which the Holy See is involved.
3. *The Activities of the Pontifical Council for the Family for the Protection of the Rights of the Child*: This section again emphasises that the rights of the child are inseparable from the rights of the family and highlights that it is the Pontifical Council for the Family that is most directly involved with the implementation of the UNCRC.

The concluding observations were released in 1995. They included criticism from the CRC Committee regarding the reservations made by the Holy See to the UNCRC. The observations raised concerns about gender-based discrimination in Catholic schools and health education, particularly in relation to sexual education. This dialogue primarily focused on Church teachings, while the issue of sexual abuse committed by clergy had not yet influenced this discussion, unlike in the dialogue during the next periodic reporting cycle.

4.2. Report Submitted in 2011:

It was during this reporting cycle that the issue of sexual abuse committed by clergy emerged. The report starts with the declaration of the Holy See's seven principles:

- The basis of the rights of children is their human dignity.
- The rights of children cannot be interpreted outside the context of the family.
- It is important to protect the rights and obligations of children within the context of the family, which is based on a heterosexual marriage.
- To the greatest extent, the welfare of a child can be protected by his or her parents.
- The child has a right to life from conception to natural death.
- A child has an inalienable right to education.
- The child has a right to freedom of religion.

The report is divided into four parts:¹⁰² Part I addresses general considerations, including the nature of the Holy See as a subject of international law. Part II responds to the Committee's concluding observations on the Holy See's Initial Report, particularly regarding reservations; the Committee's four principles and the duties and rights of parents, the education of girls, health education, and education on the UNCRC. The Holy See also discusses the principles it upholds concerning the rights and duties of the child within the family context. Part III outlines the international contributions of the Holy See in advancing and promoting the basic principles recognised in the UNCRC, covering a wide range of issues related to children (e.g., the family, adoption, children with disabilities; health and welfare; leisure and culture; and special measures to protect children, including issues of sexual abuse, drug addiction, children

102 Available at: <https://press.vatican.va/content/salastampa/it/bollettino/pubblico/2014/01/16/0032.pdf>.

living on the streets, and minority groups). Finally, Part IV addresses the implementation of the Convention in the Vatican City State.

In July 2013, the CRC Committee issued a ‘List of issues in relation to the second periodic report of the Holy See’. The questions focused on gender-based discrimination, status of children born out of wedlock, rights of the child to express his or her views, prohibition of corporal punishment, and sexual abuse committed by clergy, which was gradually being revealed at the time. In its responses to the list of issues, the Holy See questioned the accuracy of the information gathered by the Committee and the legitimacy of the questions regarding its obligations. This dialogue already foreshadowed the content of the concluding observations.

The CRC Committee issued its concluding observations on 25 February 2014.¹⁰³ The concluding observations on the second periodic cycle urged the Church to comply with the recommendations given in the previous reporting cycle and called for the withdrawal of the Holy See’s reservations to the Convention.¹⁰⁴ It recommended undertaking a thorough review of canon law¹⁰⁵ to ensure compliance with the UNCRC.¹⁰⁶ It called for the establishment of a high-level mechanism with the mandate and capacity to coordinate the implementation of children’s rights across all pontifical councils, episcopal conferences, as well as with regard to individuals and institutions of a religious nature functioning under the authority of the Holy See.¹⁰⁷ It strongly recommended verifying the financial and human resources available for the implementation of children’s rights.¹⁰⁸ The Committee also strongly recommended the establishment of independent monitoring mechanisms with clear mandates to receive and investigate children’s complaints in a child-sensitive manner, ensuring due respect for the privacy and protection of victims. The Holy See should also ensure that the mechanism is made accessible to all children attending or involved in schools, services and institutions provided by the Catholic Church. Given the unique status of the Holy See, the Committee suggested that guidelines on the relationship and collaboration between this mechanism and national law enforcement authorities should also be defined and widely disseminated. Additionally, the Committee urged the Holy See to adopt a rights-based approach to address discrimination between girls and boys and to refrain from using terminology that could undermine equality between girls and boys.¹⁰⁹ The concluding observations encouraged the Holy See to provide guidance to all relevant persons in authority with a view to ensure that the best interest of the child is a primary consideration in all areas, including when addressing cases of child sexual abuse. Furthermore, the

103 Available at: <https://documents.un.org/doc/undoc/gen/g14/412/00/pdf/g1441200.pdf>.

104 Concluding Observations 2nd Periodic Report, para. 4.

105 *Ibid.*, para. 12.

106 *Ibid.*, para. 14.

107 *Ibid.*, para. 16.

108 *Ibid.*, para. 18.

109 *Ibid.*, para. 28.

Committee urged the Holy See to disseminate this guidance to all Catholic churches, organisations, and institutions worldwide.¹¹⁰

Soon after the adoption of the ‘Concluding Observations’, the Holy See issued ‘Comments of the Holy See on the Concluding Observations of the Committee on the Rights of the Child’¹¹¹ in which it argued that the concluding observations profoundly misunderstood the role of the Holy See in the international legal order. Regarding the comments on canon law, the Holy See emphasised that, as a sovereign subject of international law, it reserved the exclusive competence to interpret its internal fundamental norms in accordance with relevant international law, including the freedom of religion. This included the specific reference to the exclusive authority of faith communities to organise and govern their internal affairs.¹¹²

Since then, there has been no official dialogue between the CRC Committee and the Holy See.

5. Conclusions

The UNCRC is a document on international level that *declared children’s rights*. However, it cannot be emphasised enough that *the true source of children’s rights is not the UNCRC itself, but the alienable human dignity of the child*, which in many religions is understood as stemming from the creation of children in the image of God. Therefore, religious perspectives on children and their rights predate their formal recognition in international law. The UNCRC is an international convention that reflects the contribution of many stakeholders, including religious communities. These communities bring an approach that values the sanctity and dignity of human life, which was instrumental in the drafting of the UNCRC and continues to provide significant value in its ongoing implementation. Nevertheless, these communities also need support to adopt genuine child rights-based approaches and thus, safeguard the life and upbringing of the most vulnerable.

From a strictly legal perspective – as discussed in detail early in this chapter – it is the Catholic Church, and more specifically the Holy See, that holds a tangible legal obligation under the UNCRC. It is this legal obligation from which an important debate started between the CRC Committee and the Holy See on the implementation of the CRC. This is a debate where both parties made important points. For instance, in terms of sexual abuse cases within the Church, corporal punishment or discrimination between boys and girls, and child marriage, the comments of the CRC Committee

110 Ibid., para. 30.

111 Available at: https://www.vatican.va/roman_curia/secretariat_state/2014/documents/rc-seg-st-20140205_concluding-observations-rights-child_en.html.

112 Comments of the Holy See on the Concluding Observations of the Committee on the Rights of the Child.

are valuable and have the capacity to support the Church in the process of dealing with these topics.

It is clear that the Committee treated the Holy See like any other State Party, and in so doing either misunderstood or ignored the Holy See's *sui generis* status in international law, which is integrally tied to its spiritual and moral mission.¹¹³ The Holy See acts as the light of Christ, with all the graces that flow from this reality.¹¹⁴ When the Committee recommended that the Holy See withdraw its reservations, which uphold parental rights and duties and reject contraception and abortion as legitimate means of family planning, and asked it to change its magisterium and internal legal system in a way that would render them more in line with the 'spirit of the Convention',¹¹⁵ the Commission challenged what the Holy See teaches, lives, and holds out to the world, which is overstepping some competence.¹¹⁶ It should be always carefully studied what can be done in order to ensure the rights of children to a higher extend but at the same time preserve the teaching of the Catholic Church, which is the path to salvation. This work cannot be done by an external monitoring body, but only within the Church itself.

113 Adolphe, 2005, p. 149.

114 Ibid., p. 177.

115 Ibid.

116 The Holy See may always argue that it falls within Art. 41 of CRC, which provides: 'Nothing in the present Convention shall affect any provisions which are more conducive to the realization of the rights of the child, and which may be contained in the law of a State Party'.

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